

Chapter 17.72**COVENANTS OF EASEMENT**

(3203-10/93)

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17.72.010 Purpose. The purpose of this chapter is to implement California Government Code Section 65870-65875, inclusive, regarding the creation of easements through the execution and recordation of covenants. (3203-10/93)

17.72.020 Creation; types of easements. In addition to any other method for the creation of an easement, an easement may be created by a recorded covenant of easement made by an owner of real property to the city. An easement created pursuant to this chapter may be for parking, ingress, egress, emergency access, light and air access, landscaping, or open-space purposes. (3203-10/93)

17.72.030 Effect. At the time of recording of the covenant of easement, all the real property benefited or burdened by the covenant shall be in common ownership. The covenant shall be effective when recorded and shall act as an easement pursuant to Division 2, Part 2, Title 2, Chapter 3, Section 801 et seq. of the California Civil Code, except that it shall not merge into any other interest in the real property. Section 1104 of the California Civil Code shall be applicable to conveyance of the affected real property. (3203-10/93)

17.72.040 Enforcement. A covenant executed pursuant to this Chapter shall be enforceable by the successors in interest to the real property benefited by the covenant. (3203-10/93)

17.72.050 Recording; contents. A covenant of easement recorded pursuant to this Chapter shall describe the real property to be subject to the easement and the real property to be benefited thereby. The covenant of easement shall also identify the approval, permit, or designation granted which relied upon or required the covenant. The covenant of easement shall be recorded in the county where all or a portion of the restricted property is located and shall contain a legal description of the real property and be executed by the owner of the real property. From and after the time of its recordation, the covenant shall impart notice thereof to all persons to the extent afforded by the recording laws of this state. Upon recordation, the burdens of the covenant shall be binding upon, and the benefits of the covenant shall inure to, all successors in interest to the real property. (3203-10/93)

17.72.060 Public hearing on release of covenant. Upon written request from any person, whether or not that person has title to the real property, the City Council shall hold a public hearing regarding the release of a covenant of easement recorded pursuant to this Chapter. The covenant of easement may be released upon a determination by the City Council that the restriction of the property is no longer necessary to achieve the land use goals of the City. Said determination shall be made based upon a preponderance of the evidence presented at the public hearing. If the City Council so determines, a release shall be recorded by the City in the official records of the County of Orange within thirty (30) days following the public hearing. (3203-10/93)

17.72.070 Fees. The City Council may adopt by resolution a fee to recover the reasonable cost of processing the release of the covenant from those persons requesting the release pursuant to Section 17.72.050. (3203-10/93)

17.72.080 Standing to enforce or challenge. Nothing in this Chapter shall create in any person other than the City and the owner of the real property burdened or benefited by the covenant standing to enforce or to challenge the covenant or any amendment thereto or release therefrom. (3203-10/93)